

G5JAANEVP

Plea

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 UNITED STATES OF AMERICA,

4 v.

15 CV 861 (JMF)

5 HENRY NEVILLE,

6 Defendant.

7 -----x

8 New York, N.Y.

9 May 19, 2016

2:30 p.m.

10 Before:

11 HON. JESSE M. FURMAN,

12 District Judge

13 APPEARANCES

14 PREET BHARARA

15 United States Attorney for the

16 Southern District of New York

17 ANDREA GRISWOLD

CHRISTINE MAGDO

18 Assistant United States Attorney

19 BARRY BOHRER

Attorney for Defendant Neville

20 ALSO PRESENT: CRAIG MINSKY, FBI

21 VIRGINIA FAUGHNAN, USPIS

G5JAANEVP

Plea

1 (Case called)

2 MS. GRISWOLD: Good afternoon.

3 Andrea Griswold, for the government. I'm joined at
4 counsel table by Special Agent Craig Minsky, of the FBI and
5 U.S. Postal Inspector Virginia Faughnan.

6 THE COURT: Good afternoon.

7 MR. BOHRER: Good afternoon, your Honor.

8 For Mr. Neville, who is next to me, Barry Bohrer, with
9 me is Marguerite Gardiner, co-counsel.

10 THE COURT: Good afternoon to you as well.

11 Good afternoon, Mr. Neville, you may be seated.

12 All right. My understanding is that the defendant is
13 making his initial appearance in court but also intends to
14 waive indictment and plead guilty to superseding information
15 that would be S2 15 CR 861. Is that correct?

16 MR. BOHRER: That is correct.

17 THE COURT: All right. Mr. Neville, my name is Jesse
18 Furman. I'm a United States district judge here in this
19 district and have been assigned to this case and would be the
20 judge to preside over trial if your case were to go to trial
21 but it doesn't look like that's the direction it's headed and
22 would the judge to impose sentence upon you if it gets to that
23 as well.

24 The purpose of today's proceeding as I just indicated
25 and as I understand is for you to make an initial appearance in

G5JAANEVP

Plea

1 this district and to waive indictment and to plead guilty.

2 Before I do that though, Ms. Griswold, I assume the
3 date and time of arrest would be sometime earlier today
4 voluntary surrender; is that correct?

5 MS. GRISWOLD: Yes, your Honor.

6 THE COURT: What time was that?

7 MS. GRISWOLD: 11 a.m.

8 THE COURT: All right. And I understand that the
9 defendant is a citizen of the United Kingdom; is that correct?

10 MS. GRISWOLD: Yes.

11 THE COURT: I believe the consular notification is not
12 required or mandatory but is entitled if he wishes, is that
13 correct?

14 MS. GRISWOLD: Yes, your Honor, that's my
15 understanding.

16 THE COURT: All right. Mr. Bohrer, would the
17 defendant like his consulate to be notified?

18 MR. BOHRER: No, your Honor.

19 THE COURT: OK. Mr. Neville, let me advise you of
20 certain rights that you have and I'll advise you of some
21 additional rights in due course but at the outset you are not
22 required to make any statements to authorities, that anything
23 you say can be used against you in and if you have made
24 statements in the past you still have the right to remain
25 silent going forward.

G5JAANEVP

Plea

1 I also advise you that you have the right to be
2 represented by a lawyer and if you cannot afford a lawyer you
3 have the right to request that the Court appoint one for you.

4 With that, I would propose that we proceed into the
5 waiver of indictment and guilty plea and we'll need to take
6 care of bail but I would propose that we table that until the
7 end of the proceeding if everybody's OK with that.

8 MS. GRISWOLD: Yes, your Honor.

9 MR. BOHRER: Yes.

10 THE COURT: All right. Very good. So you can all
11 have a seat otherwise you may get tired.

12 But, Mr. Neville, before I accept your waiver of
13 indictment and guilty plea I need to ask you certain questions
14 to insure among other things, that you wish to plead guilty
15 because you are, in fact, guilty and not for some other reason,
16 to insure that you understand the rights that you are giving up
17 by pleading guilty and that you understand the potential
18 consequences of your guilty plea.

19 If you do not understand any of my questions it is
20 critical that you let me know that because you do need up to
21 understand my question before you answer it any question. And
22 if at any time you'd like to speak with your lawyers for
23 whatever reason, just let me know that and I'm happy to you
24 give you however much time you would like to speak with them.
25 Do you understand all that?

G5JAANEVP

Plea

1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: I'll ask my deputy to administer the oath
3 to Mr. Neville.

4 (Defendant Henry Neville sworn)

5 THE COURT: You may be seated.

6 You are now under oath, which means that you may be
7 subject to prosecution for a separate crime of perjury if you
8 answer any of my questions falsely. Do you understand that?

9 THE DEFENDANT: Yes, your Honor.

10 THE COURT: All right. If you want to just move the
11 microphone closer to you, you can stay seated.

12 What is your full name?

13 THE DEFENDANT: Michael Henry Neville.

14 THE COURT: How old are you?

15 THE DEFENDANT: 57.

16 THE COURT: How far did you go in school?

17 THE DEFENDANT: I have a graduate diploma.

18 THE COURT: Is that here in the United States?

19 THE DEFENDANT: In the UK.

20 THE COURT: Have you ever been treated or hospitalized
21 for any mental illness?

22 THE DEFENDANT: No, I have not.

23 THE COURT: All right. I know that in the Pretrial
24 Services report that I received there is an indication that you
25 were diagnosed with an anxiety or depression disorder last

G5JAANEVP

Plea

1 year; is that correct?

2 THE DEFENDANT: That's correct, yes.

3 THE COURT: Were you treated for that?

4 THE DEFENDANT: No, I was not.

5 THE COURT: Is there anything about that that would
6 interfere with your ability to understand what's going on here
7 today?

8 THE DEFENDANT: I don't believe so, no, your Honor.

9 THE COURT: All right. Have you ever been treated or
10 hospitalized for any type of addiction including drug or
11 alcohol addiction?

12 THE DEFENDANT: No, I have not.

13 THE COURT: Are you now or have you recently been
14 under the care of a doctor or psychiatrist?

15 THE DEFENDANT: No, I have not.

16 THE COURT: In the last 48 hours have you taken any
17 pills, medicine, drugs or had any alcohol?

18 THE DEFENDANT: I have had two beers, yes.

19 THE COURT: When was that?

20 THE DEFENDANT: Last night before supper.

21 THE COURT: And anything about that that would
22 interfere with your ability to understand what's happening
23 here?

24 THE DEFENDANT: No, your Honor.

25 THE COURT: Is your mind clear today?

G5JAANEVP

Plea

1 THE DEFENDANT: Yes, your Honor.

2 THE COURT: Do you understand what is happening here
3 today?

4 THE DEFENDANT: Yes, I do.

5 THE COURT: All right. Mr. Bohrer, you discussed this
6 matter with Mr. Neville?

7 MR. BOHRER: Yes.

8 THE COURT: Does he understand the rights that he
9 would be giving up by pleading guilty?

10 MR. BOHRER: Yes.

11 THE COURT: In your judgment is he capable of
12 understanding the nature of these proceedings?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Does either counsel have any doubt as to
15 the defendant's competence to waive indictment and plead guilty
16 at this time?

17 MS. GRISWOLD: No, your Honor.

18 MR. BOHRER: No, your Honor.

19 THE COURT: On the basis -- both counsel said "no" I
20 think simultaneously but both said "no".

21 On the basis of Mr. Neville's responses to my
22 questions, my observations of his demeanor here in court and
23 the representations of counsel, I find that he is fully
24 competent to enter an informed plea of guilty at this time.

25 Now, have you received a copy of the information

G5JAANEVP

Plea

1 containing the preposed charges?

2 MR. BOHRER: We have.

3 THE COURT: Mr. Neville, have you seen that?

4 THE DEFENDANT: Yes, I did.

5 THE COURT: Have you read it?

6 THE DEFENDANT: I have read it.

7 THE COURT: Do you waive its public reading or would
8 you like me to read it out loud?

9 THE DEFENDANT: I think we waive, your Honor, if
10 that's all right.

11 THE COURT: Have you had enough chance to discuss with
12 your lawyers the charges to which you intend to plead guilty
13 and any possible defense to those charges?

14 THE DEFENDANT: Yes, I have.

15 THE COURT: Have they explained to you the
16 consequences of entering that guilty plea?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: Are you satisfied with their
19 representation of you?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: All right. Now, Ms. Griswold, my
22 understanding is that a colleague of yours is supposed to be
23 arriving with a waiver of indictment form; is that correct?

24 MS. GRISWOLD: That's correct, your Honor.

25 THE COURT: Do you have any idea of her whereabouts or

G5JAANEVP

Plea

1 timing?

2 MS. GRISWOLD: I would have thought she would have
3 been back, your Honor.

4 THE COURT: As would I which is why I started.

5 MS. GRISWOLD: I apologize. That is my fault. I'm
6 not sure there's much I can do about it at moment, although,
7 the door is opening at the moment.

8 THE COURT: As we speak, on queue.

9 (Ms. Magdo is present)

10 THE COURT: Ms. Magdo has arrived with what I
11 understand to be the waiver of indictment form. I'll give
12 counsel a minute to go over that with Mr. Neville.

13 (Pause)

14 MR. BOHRER: Mr. Neville and I have signed the waiver,
15 your Honor.

16 THE COURT: All right. Mr. Neville, I have the waiver
17 now in my hand. Before you signed this form or should I say
18 you signed a moment ago, did you discuss it with Mr. Bohrer?

19 THE DEFENDANT: Yes, I did.

20 THE COURT: Did you read it before you signed it?

21 THE DEFENDANT: Yes, I did.

22 THE COURT: Did Mr. Bohrer explain and discuss any
23 questions you had about the form?

24 THE DEFENDANT: Yes, he did, your Honor.

25 THE COURT: Do you know that you are under no

G5JAANEVP

Plea

1 obligation to waive indictment?

2 THE DEFENDANT: I do.

3 THE COURT: Do you understand that if you did not
4 waive indictment and the government wished to prosecute you
5 further for the crimes charged in the information that it would
6 have to present those crimes to a grand jury which might or
7 might not indict you?

8 THE DEFENDANT: I understand that.

9 THE COURT: Do you understand that by waiving
10 indictment you are giving up your right to have these crimes
11 presented to a grand jury?

12 THE DEFENDANT: Yeah, I do, your Honor.

13 THE COURT: Do you understand what a grand jury is?

14 THE DEFENDANT: Yes, your Honor.

15 THE COURT: Does either counsel know of any reason
16 that I should not find the defendant has knowingly and
17 voluntarily waived his right to be indicted by a grand jury?

18 MS. GRISWOLD: No, your Honor.

19 MR. BOHRER: No, your Honor.

20 THE COURT: All right. I find that the defendant has
21 knowingly and voluntarily waived his right to be indicted by a
22 grand jury and I authorize the filing of the information.

23 I also have here, Mr. Neville, a written Advice of
24 Rights Form that appears to have been signed by you dated
25 today, May 19, 2016, and signed by Mr. Bohrer as well. I'm

G5JAANEVP

Plea

1 showing you page two of that form. I don't know if you could
2 see it from there but did you sign that form?

3 THE DEFENDANT: I did sign that form earlier today,
4 your Honor.

5 THE COURT: All right. I will mark this as Court
6 Exhibit One and provided it to the government to retain in its
7 possession after this proceeding. Before you signed that form
8 did you read it?

9 THE DEFENDANT: Yes, I did, your Honor.

10 THE COURT: Before you signed that form did you
11 discuss it with your lawyers?

12 THE DEFENDANT: Yes, I did, your Honor.

13 THE COURT: Before you signed it did they explain it
14 to you and answer any questions that you may have had about it?

15 THE DEFENDANT: They did so.

16 THE COURT: All right. Now I'm going to go over with
17 you many of the same things that are on the form just to ensure
18 that you understand what you are doing and the consequences of
19 what you are doing.

20 Under the Constitution and laws of the United States
21 you have the right to plead not guilty to the charges in the
22 information. Do you understand that?

23 THE DEFENDANT: Yes, I do, your Honor.

24 THE COURT: If you did plead not guilty you would be
25 entitled to a speedy and public trial by a jury on those

G5JAANEVP

Plea

1 charges? Do you understand that?

2 THE DEFENDANT: I understand that, your Honor.

3 THE COURT: At that trial you would be presumed to be
4 innocent and you would not have to prove that you were
5 innocent. Instead, the government would be required to prove
6 your guilt by competence evidence beyond a reasonable doubt
7 before the jury could find you guilty. Do you understand that?

8 THE DEFENDANT: I do, your Honor.

9 THE COURT: In order to find you guilty a jury of 12
10 people would have to agree unanimously that you were guilty.
11 Do you understand that?

12 THE DEFENDANT: Yes, your Honor.

13 THE COURT: At that trial and at every stage of your
14 case you would be entitled to be represented by a lawyer and if
15 you could not afford a lawyer, one would be appointed at public
16 expense free of costs to represent you. Do you understand
17 that?

18 THE DEFENDANT: Yes, your Honor.

19 THE COURT: During a trial the witnesses for the
20 government would have to come to court and testify in your
21 presence and your lawyer would have an opportunity to
22 cross-examine them and object to any evidence offered against
23 you. You would also have the right to or opportunity to
24 present evidence in your own defense if you so desired and you
25 would have the right to have subpoenas issued or other process

G5JAANEVP

Plea

1 used to compel witnesses to come to court and testify in your
2 defense. Do you understand all that?

3 THE DEFENDANT: Yes, your Honor.

4 THE COURT: At trial you would have the right to
5 testify if you chose to do so but you would also have the right
6 not to testify. And if you chose not to testify then no one
7 including the jury could draw any inference or suggestion of
8 guilt from the fact that you did not testify. Do you
9 understand that?

10 THE DEFENDANT: Yes, your Honor.

11 THE COURT: Before trial you would have the right
12 under the Federal Rules of Criminal Procedure to receive
13 discovery from the government. You would also have an
14 opportunity to seek suppression or exclusion of evidence that
15 the government might use against you at trial. Do you
16 understand those things?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: If you were convicted at trial you would
19 have the right to appeal that verdict. Do you understand that?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: If you plead guilty you will also have to
22 give up your right not to incriminate yourself because I may
23 ask you questions about what you did in order to satisfy myself
24 that you are guilty as charged and you will have to admit and
25 acknowledge your guilt. Do you understand that?

G5JAANEVP

Plea

1 THE DEFENDANT: I do.

2 THE COURT: If you plead guilty and if I accept your
3 guilty plea you will give up your right to a trial and the
4 other rights that we have just discussed other than your right
5 to a lawyer which you keep whether or not you plead guilty but
6 there will be no trial and I will enter a judgment of guilty
7 and sentence you on the basis of your plea after I have
8 received a presentence report prepared by the United States
9 probation department and any submissions that I get from the
10 lawyers. There will be no appeal with respect to whether you
11 did or did not commit the offenses to which you are pleading
12 guilty or with respect to whether the government could or could
13 not use evidence that it has against you. Do you understand
14 all that?

15 THE DEFENDANT: Yes, your Honor.

16 THE COURT: Even now as you are entering this plea you
17 have the right to change your mind to plead not guilty and to
18 proceed to trial on the charges in the information. Do you
19 understand that?

20 THE DEFENDANT: Yes, your Honor.

21 THE COURT: Do you understand each and every one of
22 the rights that we have just discussed?

23 THE DEFENDANT: I do.

24 THE COURT: Are you willing to give up your rights to
25 a trial and the other rights that I have discussed with you?

G5JAANEVP

Plea

1 THE DEFENDANT: I am.

2 THE COURT: Now, do you understand that you are
3 charged in the information in five counts that Count One
4 charges you with conspiring to obstruct justice in violation of
5 Title 18 U.S.C. Section 371.

6 Count Two charges you with obstruction of justice or
7 aiding and abetting the same in violation of Title 18 U.S.C.
8 Sections 1503 and 2.

9 Count Three charges you with conspiring to commit bank
10 fraud in violation of Title 18 U.S.C. Section 1349.

11 Count Four charges you with participating in a scheme
12 to commit bank fraud or aiding and abetting the same in
13 violation of Title 18 U.S.C. Sections 1344 and 2.

14 And finally, Count Five charges you with making false
15 statements to law enforcement officers in violation of Title 18
16 U.S.C. Section 1001.

17 Do you know that those are the charges?

18 THE DEFENDANT: I do, your Honor.

19 THE COURT: Ms. Griswold or Ms. Magdo, will you please
20 state the elements of those offenses.

21 MS. GRISWOLD: Yes, your Honor.

22 Count One conspiracy to obstruct justice has three
23 elements.

24 First, there existed an agreement between two or more
25 people to violate a law of the United States.

G5JAANEVP

Plea

1 Second, the defendant knowingly and willfully became a
2 member of the conspiracy.

3 And third, at any time during the existence of the
4 conspiracy, any one of the conspirators committed an overt act
5 in furtherance of that agreement.

6 Count Two, obstruction of justice has three elements.

7 First, there was a pending judicial or grand jury
8 proceeding constituting the administration of justice.

9 Second, the defendant knew or had notice of the
10 proceeding.

11 And third, the defendant acted with the wrongful
12 intent or improper purpose to influence the judicial or grand
13 jury proceeding whether or not the defendant is successful in
14 doing so.

15 Count Three, conspiracy to commit bank fraud.

16 First, that the defendant agreed with at least one
17 other person to commit the substantive offense of bank fraud.

18 And second, that the defendant knowingly and willfully
19 became a member of the conspiracy.

20 Count Four, bank fraud.

21 First, the defendant knowingly executed a scheme to
22 obtain the money, funds or other property owned by or under the
23 control of a bank by means of materially false or fraudulent
24 presentences, representations or promises.

25 And second, at the time of the execution of the scheme

G5JAANEVP

Plea

1 the bank involved had its deposits insured by the Federal
2 Deposit Insurance Corporation

3 And finally, Count Five, false statements has four
4 elements.

5 First, that the defendant made a false statement;

6 Second that the statement was material;

7 Third that the statement was within the jurisdiction
8 of a department or agency of the United States;

9 And fourth, the statement was made knowingly and
10 willfully.

11 Thank you.

12 THE COURT: Mr. Neville, do you understand that if you
13 were to go to trial the government would have to prove each of
14 those elements beyond a reasonable doubt and would also have to
15 prove venue in this district as to each of those charges but
16 only by a preponderance of evidence, that it would have to
17 prove each of those things before a jury could find you guilty;
18 do you understand that?

19 THE DEFENDANT: Yes, I do, your Honor.

20 THE COURT: All right. Let me tell you now about the
21 maximum possible penalties for these crimes. The "maximum"
22 means the most that could possibly be imposed upon you. It
23 doesn't necessarily mean that that is the sentence you will
24 receive but you have to understand that by pleading guilty you
25 are exposing yourself to a combination of punishments up to the

G5JAANEVP

Plea

1 maximums that I am about to tell you. Do you understand that?

2 THE DEFENDANT: I do.

3 THE COURT: Let me begin with the possible
4 restrictions upon your liberty. The maximum term of
5 imprisonment for Count One is five years in prison; for Count
6 Two is ten years in prison; for Counts Three and Four is 30
7 years in prison for each count; and for Count Five is also five
8 years in prison. Those terms could be followed by three years
9 of supervised release on Counts One, Two and Five and five
10 years of supervised release on Counts Three and Four.

11 "Supervised release" means that you would be subject
12 to supervision by the probation department. There would be
13 rules of supervised release that you would be required today
14 follow and if you violated any of those rules, you could be
15 returned or sent to prison without a jury trial to serve
16 additional time with no credit for time spent on your
17 underlying sentence and no credit for time spent on post
18 release supervision. Do you understand all that?

19 THE DEFENDANT: I do.

20 THE COURT: You should understand that there is no
21 parole in the federal system in this country which means that
22 if you were sentenced to prison you would not be released early
23 on parole. There is a limited opportunity to earn credit for
24 good behavior. If you were sentenced to prison you would have
25 to serve at least 85 percent of the time to which you were

G5JAANEVP

Plea

1 sentenced. Do you understand that?

2 THE DEFENDANT: I do, your Honor.

3 THE COURT: In addition to those restrictions on your
4 liberty the maximum possible punishment also includes certain
5 financial penalties.

6 First, the maximum allowable fine is the greatest of a
7 certain amount or twice the gross pecuniary or financial gain
8 derived from the offense or twice the gross financial or
9 pecuniary loss to someone other than you as a result of the
10 offense whichever is greatest. That amount is a certain amount
11 that I mentioned is \$250,000 for Counts One, Two and Five and
12 \$1 million for Counts Three and Four. In addition, I could
13 order restitution to any person or entity injured as a result
14 of your criminal conduct.

15 Ms. Griswold, does the government have a calculation
16 of what the likely restitution would be, if any, here?

17 MS. GRISWOLD: Not at this time, your Honor.

18 THE COURT: All right. I can also order you to
19 forfeit all property derived from the offense or used to
20 facilitate the offense. In that regard I note that in a plea
21 agreement that we will discuss shortly with the government that
22 you admit to the forfeiture allegations in the information with
23 respect to Counts One through Four. And finally I must order a
24 mandatory special assessment of \$100 per count.

25 Do you understand that those are the maximum possible

G5JAANEVP

Plea

1 penalties?

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: Do you understand that it is possible
4 taking all five counts together that you could be sent to
5 prison for a total of 80 years in prison. Do you understand
6 that?

7 THE DEFENDANT: I do, your Honor.

8 THE COURT: I take it you are not a citizen of the
9 United States; is that correct?

10 THE DEFENDANT: No, I am not.

11 THE COURT: Do you know that as a result of your
12 guilty plea there may be adverse affects on your immigration
13 status that, for example, you may be detained by the
14 immigration authorities following completion of any criminal
15 sentence, that you may be removed or deported from the United
16 States, that you may be denied citizenship or denied admission
17 to the United States in the future? Do you know that those are
18 some of the possible immigration consequences of a guilty plea?

19 THE DEFENDANT: I do, your Honor, yes.

20 THE COURT: Have you discussed the possible
21 immigration consequences of your plea with your lawyers?

22 THE DEFENDANT: I have, indeed.

23 THE COURT: Do you know that as a result of your
24 guilty plea you may also lose certain valuable civil rights in
25 this country to the extent that you have them or could

G5JAANEVP

Plea

1 otherwise obtain them now, such as right to vote, the right to
2 hold public office, the right to serve on a jury and the right
3 to possess any kind of firearm?

4 THE DEFENDANT: I understand that.

5 THE COURT: Are you serving any other sentence or
6 being prosecuted in any other court at this time?

7 THE DEFENDANT: No, I am not.

8 THE COURT: Do you understand that if your lawyer or
9 anyone else has attempted to predict for you what your sentence
10 will be in this case that their predictions could be wrong? Do
11 you understand that?

12 THE DEFENDANT: Yes, your Honor, I do.

13 THE COURT: It's important for you to understand that
14 no one, not your lawyer, not the lawyers for the government, no
15 one can give you any promise or assurance of what your sentence
16 will be. And that is because your sentence will be determined
17 by me and by me alone. And I am not going to do that today.
18 Instead, I will wait until I receive the presentence report
19 from the probation department that I mentioned earlier. I will
20 do any own independent calculation of how the United States
21 Sentencing Guidelines apply to your case and consider any
22 departures from the guidelines range. I will consider any
23 submissions I get from the lawyers and ultimately the factors
24 that are set forth in the statute Title 18 U.S.C. Section
25 3553(A) that govern sentencing. And I will do all of that

G5JAANEVP

Plea

1 before determining and imposing an appropriate sentence. Do
2 you understand all of that?

3 THE DEFENDANT: Thank you, your Honor. Yes, I do.

4 THE COURT: Have you discussed that process with your
5 lawyers?

6 THE DEFENDANT: Yes, I have.

7 THE COURT: Now even if your sentence is different
8 from what your lawyers or anyone else has told you that it
9 might be, even if it's different from what you expect or hope
10 it would be and even if it is different from what is in the
11 plea agreement you will still be bound by your guilty plea and
12 you will not be allowed to withdraw your plea. Do you
13 understand that?

14 THE DEFENDANT: I do, yes.

15 THE COURT: All right. Now, I understand that there
16 is as I've mentioned a written plea agreement that you and your
17 lawyers have entered into with the lawyers for the government;
18 is that correct?

19 THE DEFENDANT: I believe so, your Honor.

20 THE COURT: All right. Now, I have an original letter
21 plea agreement dated May 13, 2016, from Assistant United States
22 Attorneys Andrea Griswold and Christine Magdo to your lawyer,
23 Mr. Bohrer. It appears to have been signed by you dated today
24 as well. Showing you the last page of the plea agreement and
25 if you can see it from there, did you sign that earlier today?

G5JAANEVP

Plea

1 THE DEFENDANT: Yes, I did, your Honor.

2 THE COURT: Before you signed the plea agreement did
3 you read it?

4 THE DEFENDANT: Yes, I did, your Honor.

5 THE COURT: Before you signed it did you discuss it
6 with your lawyers?

7 THE DEFENDANT: Yes, I did.

8 THE COURT: And did you sign it in their presence
9 after you discussed it with them?

10 THE DEFENDANT: Yes, I did.

11 THE COURT: Did he explain it to you and answer any
12 questions that you may have had about the plea agreement?

13 THE DEFENDANT: Yes, he has.

14 THE COURT: Did you fully understand that plea
15 agreement before you signed it?

16 THE DEFENDANT: I did, your Honor.

17 THE COURT: All right. Now, as I understand it,
18 pursuant to this plea agreement you have agreed to provide
19 certain cooperation to the government and in exchange if you do
20 that and abide by the other requirements in the agreement, the
21 government has agreed to file a letter on your behalf in
22 connection with your sentencing; is that your understanding?

23 THE DEFENDANT: That is my understanding, your Honor,
24 yes.

25 THE COURT: Now, do you understand that it is up to

G5JAANEVP

Plea

1 the government, not to me, to decide whether the cooperation
2 that you provided the government has been good enough and
3 productive enough for the government to file that letter; do
4 you understand that?

5 THE DEFENDANT: I understand, yes.

6 THE COURT: Do you understand that even if the
7 government does file that letter and make a motion on our
8 behalf for a downward departure that it would ultimately be up
9 to me as the sentencing judge to decide what, if any, credit
10 you should get for your cooperation and ultimately to decide
11 what sentence is appropriate; do you understand that?

12 THE DEFENDANT: Yes, I do, your Honor.

13 THE COURT: Does this written plea agreement
14 constitute your complete and total understanding of the entire
15 agreement between you and the government?

16 THE DEFENDANT: I believe it is, yes, your Honor.

17 THE COURT: All right. Are there any other agreements
18 or has anything been left out of this written plea agreement?

19 THE DEFENDANT: No, your Honor.

20 THE COURT: All right. Mr. Bohrer, given I think
21 Mr. Neville has an English tendency if I may say so to be
22 somewhat polite but it can come out -- when he says he doesn't
23 believe so he just means "no". But let me confirm with you --

24 MR. BOHRER: I can confirm everything your Honor has
25 just said.

G5JAANEVP

Plea

1 THE COURT: All right. Very good. Other than what is
2 written in this agreement, Mr. Neville, has anyone made any
3 promises or offered you'd any inducement either to plead guilty
4 or to sign the agreement?

5 THE DEFENDANT: No, your Honor.

6 THE COURT: Has anyone threatened you or forced you to
7 plead guilty or to sign the agreement?

8 THE DEFENDANT: No, your Honor.

9 THE COURT: Has anyone made promise to you as to what
10 your sentence will be in this case?

11 THE DEFENDANT: No, your Honor, no.

12 THE COURT: All right. Now, Mr. Neville, I would like
13 you to tell me in your own words what you did that makes you
14 believe that you are guilty of each of the charges in the
15 information.

16 THE DEFENDANT: I was the group sales and marketing
17 director and president for an art and antiques dealing company
18 that operated in New York and London. Bob Olins was one of my
19 clients. On behalf of the company starting prior to 2011, I
20 held a number of pieces for Mr. Olins' antiques collection on
21 consignment. I was working out of my company's office in New
22 York City.

23 As of February 2012, I understood that U.S. bank had a
24 lien on Mr. Olins' assets and that a court approval was
25 required before items in Mr. Olins' collection could be sold.

G5JAANEVP

Plea

1 In May 2012, I learned that a court had appointed a receiver to
2 administer Mr. Olins' collection.

3 By the spring of 2012, I was aware that my company had
4 another client who was likely willing to pay in excess of \$1
5 million for a set of vases in Mr. Olins' collection. Prior to
6 May 2012, I was aware that the company had received a payment
7 in that amount for the vases. I did not tell the receiver of
8 this payment because I believed the receiver was willing to
9 accept much less for the vases. I understood that the receiver
10 was required to obtain authority from a Court for permission to
11 sell the vases and I misled him about their value so that the
12 court would approve the sale at a price that was much lower
13 than \$1 million.

14 Prior to the receiver's submission of the application
15 to the court, Mr. Olins and I agreed that if, with court
16 approval, we were able to obtain the vases from the bank for a
17 lower price than the company's client paid for them, Mr. Olins
18 would receive a benefit from the overage. Pursuant to that
19 agreement and at Mr. Olins' request, after I learned that the
20 court had approved the sale in June of 2012, I directed the
21 company to send a wire transfer of a portion of the overage to
22 an account in the Isle of Man. The company also retained some
23 of the overage.

24 In September 2015, when I spoke with law enforcement
25 officers about the Olins matter, I misrepresented certain

G5JAANEVP

Plea

1 aspects of my involvement concerning the purchase and the sale
2 that I just described. Specifically, I indicated that I did
3 not have the intent to mislead the receiver regarding the value
4 of vases and status of the sale to the third party purchaser
5 when, in fact, I did.

6 THE COURT: All right. Now, let me just ask you a
7 couple follow-up questions. First, you indicated that you were
8 working in your company's New York City office. Where was
9 that?

10 THE DEFENDANT: On Madison Avenue.

11 THE COURT: In? Manhattan.

12 THE DEFENDANT: In Manhattan.

13 THE COURT: All right. Second, you indicated that you
14 were aware of the court action in the appointment of a receiver
15 and that you misled the receiver with the understanding that
16 the receiver would seek court approval for the sale of the
17 vases; is that correct?

18 THE DEFENDANT: Yes.

19 THE COURT: So was it your understanding when you
20 provided that false information that is the information
21 concerning the value of the vases, that the receiver would
22 submit that information to the court in connection with seeking
23 approval for the sale?

24 THE DEFENDANT: Can I just?

25 THE COURT: Sure.

G5JAANEVP

Plea

1 (Pause)

2 THE DEFENDANT: Yes, your Honor.

3 THE COURT: All right. Ms. Griswold, with respect to
4 the bank fraud and conspiracy to commit bank fraud counts, I
5 might be missing something but where is the bank here and I
6 presume it is insured by the FDIC?

7 MS. GRISWOLD: Yes, your Honor. AB and T Bank, it is
8 located in Oklahoma. The government would proffer that it is
9 FDIC insured. Just for clarification, receiver that the
10 defendant spoke about it is the USB bank, AB and T. The
11 government would also note that the court approval that is
12 sought here was of a court located here in the Southern
13 District. It was Judge Cote.

14 THE COURT: And am I correct that AB and T Bank,
15 Mr. Olins had a debt to AB and T Bank, is that correct? Some
16 of the money, presumably, would have gone to AB and T Bank?

17 MS. GRISWOLD: That is correct. AB and T Bank had a
18 first lien on the art and antiques collection. And the SEC's
19 lean as indicated in the information was a second priority to
20 that collection. So some of the money would have gone to AB
21 and T.

22 THE COURT: Mr. Neville, did you understand some of
23 the money was supposed to go to ABT and to the bank that had
24 been appointed to as receiver?

25 THE DEFENDANT: Yes, I did.

G5JAANEVP

Plea

1 THE COURT: Mr. Bohrer, is there any dispute that AB
2 and T is insured by the FDIC?

3 MR. BOHRER: There is none.

4 THE COURT: Mr. Neville, when you did those things did
5 you understand that what you were doing was wrong and against
6 the law?

7 (Pause)

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: All right. Mr. Bohrer, do you know of any
10 valid defense that would prevail at trial or of any reason why
11 Mr. Neville should not be permitted to plead guilty?

12 MR. BOHRER: No, your Honor.

13 THE COURT: Ms. Griswold, any additional questions
14 that you would like me to ask of Mr. Neville?

15 MS. GRISWOLD: No, your Honor.

16 THE COURT: Would you please proffer and describe
17 briefly what the government's evidence would be and what it
18 would show if the defendant were to go to trial.

19 MS. GRISWOLD: Yes, your Honor.

20 Were the defendant to go to trial the government would
21 show through testimonial evidence both from a representative of
22 AB and T as well as e-mails exchanged between AB and T, the art
23 and antiques dealers and others that the defendant entered into
24 an agreement with Mr. Olins to obtain, to defraud, misrepresent
25 the value of certain items from Mr. Olins' collection to the

G5JAANEVP

Plea

1 Court and AB and T and in order to profit. And that evidence
2 would as I said, include e-mails, testimony from law
3 enforcement, testimony from individuals from AB and T as well
4 as public court records.

5 THE COURT: All right. And what about with respect to
6 Count Five?

7 MS. GRISWOLD: The evidence with respect to Count Five
8 would include testimony from law enforcement agent who was
9 present in the proffer sessions in which the defendant
10 misrepresented certain information in September and October of
11 2015 concerning his intent with respect to statements made to
12 the receiver.

13 THE COURT: All right. Do both counsel agree that
14 there is a sufficient factual basis for a guilty plea to each
15 of the counts?

16 MS. GRISWOLD: Yes, your Honor.

17 MR. BOHRER: No, your Honor.

18 THE COURT: Does either counsel of know of any reason
19 that I should not accept the defendant's plea of guilty?

20 MS. GRISWOLD: No, your Honor.

21 MR. BOHRER: No, your Honor.

22 THE COURT: Mr. Neville, because I acknowledge that
23 you are, in fact, guilty as charged in the information, because
24 I am satisfied that you know of your rights and including the
25 right to go to trial and that you are aware of the consequences

G5JAANEVP

Plea

1 of your plea, including the sentence that could be imposed upon
2 you and because I find that you are knowingly and voluntarily
3 pleading guilty, I hereby accept your guilty plea and enter a
4 judgment of guilty on Counts One through Five of the
5 information.

6 The probation department will want to interview you in
7 connection with the presentence report that it will prepare.
8 If you choose to speak to the probation department it is
9 important that anything you say is truthful and accurate.
10 Among other things, that report is important to me in deciding
11 what sentence to impose upon you. You and your lawyers will
12 have an opportunity to review the report prior to your
13 sentencing and I would urge you to review it with care and to
14 bring anything, any mistakes in the report or anything that you
15 would want to bring to my attention in connection with
16 sentencing to your lawyer's attention so that he can raise it
17 in the proper fashion. Do you understand all that?

18 THE DEFENDANT: Yes. Thank you, your Honor.

19 THE COURT: Mr. Bohrer, do you wish to be present in
20 connection with any interview?

21 MR. BOHRER: Yes, your Honor.

22 THE COURT: I'll order that no interview shall take
23 place until counsel is present.

24 Ms. Griswold, should I order a presentence report at
25 this time or hold off?

G5JAANEVP

Plea

1 MS. GRISWOLD: No, your Honor. We would ask for a
2 control date six months out.

3 THE COURT: All right. I will set a control date
4 sentencing date but it will function as a control date,
5 September 8, 2016 at 3:30 in the afternoon. That, obviously, I
6 presume that will need to be adjourned I am not going to order
7 a presentence report at this time.

8 Mr. Bohrer.

9 MR. BOHRER: I consent to all of that, your Honor.

10 THE COURT: OK. I direct the government to provide to
11 the probation department its factual statement of the offense
12 within seven days of my ordering the presentence report and
13 defense counsel must arrange for the defendant to be
14 interviewed by probation within two weeks of the same.

15 In connection with my individual rules and practices
16 for criminal cases the defense submissions are due two weeks
17 prior to the sentencing date. The government submission is due
18 one week prior to the sentencing date. If as we get closer you
19 think it makes sense to flip the order of that, you can propose
20 that to me and I'm certainly open to that.

21 We do need to address the issue in question of bail.
22 I also think I may have neglected to say that I marked the plea
23 agreement Court Exhibit Two and I will provide that to the
24 government to retain in its possession.

25 Turning to the issue of bail, does the government have

G5JAANEVP

Plea

1 a position with respect to bail?

2 MS. GRISWOLD: Yes, your Honor. The parties have
3 discussed and have a joint proposal for your Honor's
4 consideration.

5 THE COURT: All right.

6 MS. GRISWOLD: A one hundred thousand dollar personal
7 recognizance bond to be co-signed by one financially person,
8 particularly, Mr. Neville's wife. She has already been
9 interviewed and approved by the U.S. Attorney's Office as a
10 financially responsible person.

11 In addition to those conditions, surrender of travel
12 documents and no new applications. Travel would be restricted
13 to all of the districts of New York. The defendant, as well as
14 the district of Connecticut and Massachusetts.

15 The defendant lives in Connecticut and we understand
16 that he has family and travel that his request is to extend to
17 Massachusetts and the other districts in New York and the
18 government has no issue with that.

19 Regular pretrial supervision.

20 THE COURT: All right. Mr. Bohrer.

21 MR. BOHRER: As counsel indicated, we have had
22 discussions with the government and with your Honor's
23 indulgence, we would urge those conditions upon the Court. And
24 I believe we have discussed since a co-signature is necessary,
25 having a period of time in which to accomplish that. We had

G5JAANEVP

Plea

1 discussed a week, if that suits your Honor.

2 THE COURT: All right. Ms. Griswold.

3 MS. GRISWOLD: Yes, your Honor.

4 THE COURT: All right. I will accept the parties'
5 proposal and set bail with those conditions. Defendant may be
6 released on his own signature with the remaining conditions to
7 be met by May 26. That is, say the co-signing and surrender of
8 travel documents.

9 Mr. Neville, you should understand that you must abide
10 by those conditions of release. And you should understand that
11 if you do not that that could have, first of all, you may be
12 guilty of additional crimes and subject to additional penalties
13 above and beyond what I described earlier but it also may have
14 negative consequences for you at the time of sentence for the
15 plea that you just entered. Do you understand all that?

16 THE DEFENDANT: I do understand, your Honor.

17 THE COURT: You should also understand that you must
18 be in this courtroom on the date and time that I have set for
19 sentencing. I did indicate that that date would likely be
20 adjourned but unless your lawyer advises you that it has been
21 adjourned, it is your obligation to be here. If you are not
22 here on that appointed day and hour that you again may be
23 subject to prosecution for separate crimes and subject to
24 penalties above and beyond those that I described to you
25 earlier. Do you understand that?

G5JAANEVP

Plea

1 THE DEFENDANT: I do, your Honor. Thank you.

2 THE COURT: All right. Ms. Griswold, anything else
3 for the government?

4 MS. GRISWOLD: No, your Honor. Thank you.

5 THE COURT: Mr. Bohrer?

6 MR. BOHRER: Nothing further, your Honor.

7 THE COURT: Assume there is no need to seal --

8 MS. GRISWOLD: We have no requests in that regard.

9 THE COURT: All right. Hang on one moment please.

10 All right. Very good. We are adjourned. Thank you.

11 (Adjourned)

12

13

14

15

16

17

18

19

20

21

22

23

24

25